

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Speaker: Mr. Connor

Good evening to you all. I'll be very brief in my comments, I hope. I'd also like to say, we're here to see your comments. I think the Durango Herald described us as stone-faced the other night so we'll try and be a little bit more animated up here. But we do realize that we're here to listen to you all tonight. I think it will be helpful, though, if I just provide some brief background and context as to what we're trying to accomplish as part of the Administration proposal and the DSEIS which was just released a few -- about a month ago.

And the best way that I can provide that context is I'm actually going to read to you a short letter from Secretary Babbitt. He wrote this letter in response to a number of organizations who wrote to him in opposition of the Administration proposal to resolve the Colorado Water Rights Settlement. As you are aware, in 1988 Congress enacted the Colorado Ute Water Rights Settlement Act which secured for the Ute Tribes a specific quantity of water from Animas-La Plata project to settle their water rights claims in the Animas and La Plata River basins.

Implementation of this settlement had been long-delayed, thus denying the tribes the benefit of the agreement they reached with their non-Indian neighbors, the State of Colorado, and the United States in the mid-1980s. The delay has triggered a clause in the Settlement Agreement which now necessitates a decision, whether to honor the fundamental tenets of the settlement or force the tribes to litigate their water rights claims.

In August 1998, I presented an Administration proposal to finalize implementation of the 1988 Colorado Ute Water Rights Settlement Act. At that time I made it clear that we would not take environmental shortcuts in resolving this issue. Accordingly, our proposal was downsized to satisfy our responsibilities under the Endangered Species Act. In addition, we committed to submit our proposal, as well as competing proposals, to settle the tribes' water rights claims, to an environmental review process under the National Environmental Policy Act (NEPA.)

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Connor (con't)

The preliminary results of the NEPA analysis were made available on January 14 with the release of a draft Supplemental Environmental Impact Statement. The draft SEIS recommended a modified version of the Administration proposal as the best alternative to resolve the tribes' water rights with the least environmental impacts.

Our proposal bears no resemblance to the massive ALP project that has been opposed by the environmental community for many decades.

Gone is the irrigation component of the project, which called for much more water than the Animas River could support, and which would have brought with it serious water quality concerns.

Gone is an oversized reservoir that would create a continuing incentive to divert more water from the Animas River than the river system can tolerate. What is left is a downsized off-stream reservoir that satisfies the bulk of the tribes' water rights and which stores a limited amount of unsubsidized municipal water for the growing communities in the Durango and Farmington areas. The balance of the tribes' water rights would be secured through market purchases of water rights, an approach that many environmental groups have advocated.

I particularly want to emphasize my concern that we honor our obligation to the Ute Tribes by carrying through on commitments that were made in the 1988 settlement. In order to get this matter settled, the tribes have made significant concessions in response to environmental concerns and it is now time for us to reciprocate.

Justice Black once admonished, "Great nations, like great men, should keep their word." The time has come to fulfill our trust responsibility to the tribes. I am committed to follow through on this responsibility by working with the Congress to enact legislation in this session.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Connor (con't)

That pretty much sums up our intent in releasing the Administration proposal in the follow-up process to do an environmental analysis on that proposal.

We are very committed to following through on implementing the settlement and there have been some comments over the last couple of nights questioning the validity of those rights. And I just want to make clear that that's something that the Department has no intention to revisit.

As part of the scoping process last year, we were asked to analyze the validity of the Tribe's priority date, the 1868 priority date.

We did do that by an opinion issued by the Solicitor of the Department of Interior. It was dated September 9, 1999, in which he affirmed, in our view, the validity of the 1868 priority date.

We also believe that the quantification of the water rights was provided as part of the 1988 settlement, and that's the quantity of water we are seeking to provide for the Tribes to finalize the settlement.

So the question now to the Department is what is the best means to resolve that settlement. And that's where this NEPA process comes in. We've analyzed ten alternatives as part of the draft SEIS, nine alternatives in which provide water to the Tribes, and one no-action alternative.

We did what we've characterized as an appraisal-level analysis of those ten alternatives consisting of primarily a review of environmental impacts, ability of those alternatives to meet the project purpose and need; that being the ability to implement the settlement and some various technical and economic factors that are documented in the analysis.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Connor (con't)

From that process we decided to refine, to define, more and carry forward with a more detailed analysis two alternatives: A modified version of the Administration proposal, which consists of a reservoir, a 120,000 acre feet reservoir, which includes 30,000 acre feet of inactive storage. And also a water acquisition trust fund that would, as Secretary Babbitt noted, provide Tribes the ability to acquire the balance of the water provided in the '88 settlement. And we've also added a municipal pipeline to deliver the Navajo Nation's water supplies to its community of Shiprock.

We also looked with more definition at a nonstructural alternative, noted in the analysis of Refined Alternative 6.

That's basically made up of three different elements: One is to provide the Ute Tribes with water through reoperation of existing federal reservoirs and facilities in the area, primarily Navajo Dam and Reservoir.

A second aspect of it is enlarging Lemon Dam, which would provide a moderate amount of water – water supply in the Florita River.

And then finally a water acquisition program to provide the Tribes a balance of their water rights claims.

And we looked at the nonstructural proposal. We analyzed it for purpose and need. We have indicated in the document, it's Chapter 5 of the DSEIS, concerns about that alternative's ability to meet the project purpose and need.

And we also looked at it for aquatic impacts as part of our Clean Water Act for B-1 analysis. And I think that's basically in the appendix to the DSEIS.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Connor (con't)

And in the end, in this particular document, we have identified a preferred alternative, that being the modified Administration proposal. And we did so primarily on the analysis of the purpose-and-need factors and concerns about water quality impacts that were illustrated as part of the Clean Water Act analysis, primarily wetlands impacts associated with a large-scale water acquisition and transfer program.

We also have some concerns with that, the nonstructural alternative impacts to other Indian trust assets and Navajo Nation and the Jicarilla Apache Tribe, and that's also documented in the Chapter 5 of the draft document.

We thought it very important as part of this document to indicate a preferred alternative and the basis for why we have chosen to move forward with that and identify it as the preferred alternative.

We have tried to be very up front about our analysis as a means to invite comment because we know there are a lot of proponents to that proposal, and we want to be clear as to why we have concerns about its ability to meet within the Water Rights Settlement.

So I encourage you to be very specific in your comments to the extent possible about the pros or the cons of the analysis as you see it. That's going to be the most helpful to us as we go back and take into account public comments, review our analysis in light of those comments, and respond to those comments as part of developing a final decision on both the Environmental Impact Statement, and then provide the background that the Secretary needs for him to do a record of decision in this matter.

With that, it's a little longer than I wanted to go on. I'll turn it over to you. And we appreciate hearing your comments. And that's what makes this process work. Thank you very much.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Speaker: Mr. Salazar

Thank you, Mr. Bezdek and Mr. Connor and Ms. DeAngelis and Mr. Beck. I appreciate the opportunity to appear here in front of you again on the Animas-La Plata Project.

I appreciate the letter from the Secretary of Interior, as well, to the environmental organizations that had written expressing their concerns about the project.

1 | I have given you all a copy of the written comments that I will review and put into the record as well this evening.

PHT3-1 These comments duplicate the written statement as submitted in DNWS1.

I want to begin by thanking the Bureau of Reclamation for preparing a thorough environmental review of ALP and its alternatives in such a timely fashion. Just over a year ago, I appeared at a scoping meeting for this supplemental EIS. At that time, I urged Reclamation to complete this review without delay. I am pleased that it has done so and has issued its draft supplemental EIS on schedule. This is particularly impressive, given the fact of the large amount of public input, that Reclamation received and considered and the broad spectrum of alternatives that it evaluated.

In completing the draft supplemental EIS, Reclamation has taken a big step toward meeting its commitment to the Southern Ute and Ute Mountain Ute Tribes under the 1986 Settlement Agreement. I am confident that it will proceed expeditiously to modify its analysis as necessary and issue a final Environmental Impact Statement.

Now is the time to address the few remaining issues and move forward to build a project that is environmentally and fiscally sound, fulfills a longstanding legal and moral obligation to the Ute Tribes, preserves the existing agricultural economy, provides needed water for communities in southwest Colorado and northwest New Mexico, and avoids years of costly and acrimonious litigation.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Salazar (con't)

Last year I also urged Reclamation to add a conservation pool for environmental and recreational uses to the Administration proposal. I am pleased to see that the preferred alternative, Refined Alternative 4, includes a 30,000 acre foot minimum pool for fishery and water quality purposes.

Even

with that minimum pool, the reservoir would only hold 120,000 acre feet of water, less than half the size of the reservoir recommended in the 1996 EIS.

The results of Reclamation's study are not surprising to me. After carefully assessing a wide array of alternatives, Reclamation concluded that only a structural alternative can meet the purpose and need of the project, satisfying the Ute Tribes' claims and providing water for other Indian and non-Indian community water needs in Colorado and New Mexico, within a reasonable time. Nonstructural alternatives that rely heavily on buying land and water are fraught with risk and uncertainty and could take 30 years or longer to implement.

Perhaps surprising to some people is that the study found that the preferred alternative is the practicable alternative least damaging to aquatic resources. Refined Alternative 6, the nonstructural alternative that came closest to meeting the purpose-and-need test, would have adverse impacts on more than four times as many acres as Refined Alternative 4.

The preferred alternative limits average annual depletions to 57,100 acre feet which satisfies endangered species requirements. It also requires Reclamation to schedule pumping from the Animas River to reduce effects to both the downstream trout fishery and recreational uses.

Also, because it would use all the remaining available storage capacity of Navajo Reservoir, Refined Alternative 6 would be more detrimental to the Navajo Nation and the Jicarilla Apache Tribe. And because it would involve the acquisition of more than twice as much land and water, Refined Alternative 6 would be far more disruptive to existing irrigated agricultural uses and rural communities in southwest Colorado, the preferred alternative.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Salazar (con't)

The study found that while the cost of Refined Alternative 4 is slightly higher than the cost of Refined Alternative 6, the cost estimate for Refined Alternative 4 is more reliable. Refined Alternative 6 has risks that could add significantly to the cost estimate.

The preferred alternative emerges head-and-shoulders above the nonstructural alternatives.

Finally, I want to say that moving forward in building the project is the right thing to do. Much has been said by government and by environmental organizations over the last decade about the importance of environmental justice. Native American tribes across this country have been the most frequent victims of environmental injustice. For environmental organizations and others who oppose this project, I ask that they consider the environmental injustice that will be perpetrated if this project is not built and the wishes and rights of the Southern Utes and the Ute Mountain Utes are not honored.

I want to add two comments to that written statement which I just read into the record.

The first is that as the top legal advisor for the State of Colorado, I have been very proud of what we have been able to do here in the state in terms of dealing with some very difficult legal issues with our Indian tribes in Colorado. Most recently we have completed what is a settlement of how people deal with the air quality issue on the Southern Ute Reservation. That legislation, which is a compact between the State and the tribes is currently going through the legislative process.

That cooperation that we have with the Indian tribes is based in part on the cooperation we were able to achieve when the 1986 settlement was developed between the State of Colorado, the tribes, the communities that were involved, and the federal government. And it's that kind of cooperation that we now need to move forward in fulfilling and implementing the 1986 settlement.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Salazar (con't)

The second thing that I wanted to add is that I have very big concerns about the alternative that the environmental community put forward as the Alternative Number 6 because of the dry-up of agricultural lands that would be contemplated with respect to that particular alternative.

Here in Colorado, because of the free-fire market system that we have for water rights, you don't have to look long or far to see what has happened when agricultural lands have been dried up and water moved off of those lands.

When you go to a place like the Arkansas River Basin and you see tens of thousands of acres which were once very highly fertile and productive land and you now see those lands being absolutely nothing more than wastelands which can't sustain the livelihoods or the agricultural economy of the area. It is something that tells me that we have lost something which is very valuable in that particular community.

An alternative that it would require to the Indian tribes to essentially have their rights fulfilled by the drying up of the agricultural lands and the drying up of those lands is something that is simply not acceptable to me, and it is something that I will oppose and I will fight as Colorado Attorney General.

With that, I would conclude by simply asking the Department of Interior and the Bureau of Reclamation to move forward with the preferred alternative that has been set forth in the Draft Supplemental Environmental Impact Statement, and I would pledge the support of my office in the days, weeks, and years ahead to fulfill the preferred Alternative Number 4 and make it then become a reality. Thank you very much.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Speaker: Chairman House

I want to thank the panel for allowing me to come up and make a few comments tonight. I thank the panel for listening to the concerns of our Native Americans in the State of Colorado. And I'm honored to be here tonight. The weather that we're having outside, so what does that mean? Is that we'll come a long ways to make our statement when we have to deal with the issues that are before us.

Let me kind of go back a little bit as to what I would think. Presently right at this time we have 2001 tribal membership with the Ute Mountain Ute Tribe. And our reservation, of course, was a lot bigger than what it is now.

Prior to becoming a tribal chairman, I was working for the Ute Mountain Tribal Park where we had to deal with a lot of Native American issues as far as the NEPA law is concerned.

What I'm talking about are there are a lot of our Native American people remains out there throughout this whole area. Every time that we start to dig up some things along the road, build a house wherever we decide it's a beautiful site we're going to be able to enjoy our life together with whomever we have, families, we start to dig.

And what happens in this case is that we come up with burial remains. And the burial remains that you see and picked up are being accumulated, collected, by the government in the name of preservation.

There are a lot of it here in the State of Colorado. And when you take a look at that, you look at all these remains that are here in the laboratories of the so-called scientific community to analyze our Native Americans, why and how they die.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Chairman House (con't)

Then you take a look at our animal life that you see out there. When I was a young kid, probably right around the age of 6, 7, I hunt that very area that we're talking about, Basin, Ridges Basin area. There are a lot more deer and elk in that area than what I see over there now. This last year I went out there to hunt. It was hard for us to be able to find any animals that are out there.

I know that none of us were here when the treaty was signed in 1868. Our forefathers were here, refer to it as the Indian descent as where we came from. Our Native American people signed this treaty in good faith, hoping to be able to live in peace with what we were dealing with at that time.

The State of Colorado came into the union in 1876, later on after the treaty was signed. So the Native Americans, the Ute Indian people, lived in the small area which we refer to as reservation. And I believe there are a lot of times people might have come before the government and said, you know, that's not right. That's not the right thing to do for the Indian people to be on the reservation. It's not the right thing to do this and to do that.

We can't go back and change the past. What I would like to have said was that if we're going to look at environmental impacts and let that become a very important part of our life, I would like to have said let's put a buffer zone along the Animas River and all the contributories on the Reservation State of Colorado, about a 50-mile radius from the river streams are flowing, let's put a buffer zone that no development of any kind be put on that strip.

In other words, let's wipe out Durango. Let's don't let Durango be an area. Let's don't let towns along the river be there. Let's take the homesites out. Let's take the beautiful homes that Durango are building now, let's take away.

If we're concerned about environmental issues, then let's start talking about that; a buffer zone along the Animas River where there's no development. Let's leave the animal life alone. Let's leave the air alone. We're killing ourselves in the name of progress.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Chairman House (con't)

And when I take a look at that, we can't turn the time back, so we have to live with what we've got. And when I take a look at that as my forefathers educated about to me, they said, we need water.

In the name of economic development, I'm coming before the people that are here and saying we need some water. Water is very crucial to us.

I also would like to say to the environmental community that are trying to give us a blank check, I don't want your check. I don't need your check. I don't want your money.

What I want is the process that I signed, that we signed, in 1868, the treaty that we signed for the water rights. I want that. I want that not because of myself that I'm speaking here before you, but I want that for the future of my tribe, or the ones that have not come to the reservation yet.

The foresight that my forefather has put, my grandfather that has spoke before -- before Congress, my father that spoke before Congress, and I spoke before Congress. The President and I, we signed this Ute Water Rights Agreement in 1986. I was the tribal chairman at that time and signed it.

The letter he just read here a few minutes ago about honored men and if honored men had signed it, the President who signed it was President Reagan. He signed it and Congress passed it in 1988.

We're talking about laws that we get hung up on. Laws that now is trying to be a block to where we don't get the wet water, the wet water that we want. Simply the Utes are asking what's legal to due their heirs under the treaty of 1868.

We're asking for this because we want to grow just like everybody else. We want to grow because there's future in this Tribe, both Southern Ute and Ute Mountain, the future of our Indian people.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Chairman House (con't)

And I spoke many times with my tribal leaders and I said this is what we're going to do. There isn't anything that we can compare in the outside community what we've got now. We've come a long ways, and nobody stepped forth and said, You Indian people, you need to do this. We done it on our own.

When the Dolores Project hit the Reservation, the Ute Mountain Reservation, we didn't have the ample water we could use. We depended upon the Ute Mountain for moisture, just like outside the snow was coming down, we'd depend on that.

And the government came and said, We're going to build schools. We couldn't get a teacher, a good teacher, on the reservation to teach the kids. We didn't have the adequate water to supply the non-Indians to come on the reservation to teach and give what we can to the Indian people, Ute people. The government had to close their agency down.

So when I take a look at all this stuff that we've got now, I wish there were time to take the time back. I'm not saying this in a very -- a very hard or any means to hurt anybody. There are a lot of people come in from the foreign countries started back from the 1800s to we now have the problem, try to take care of the environment. We're killing ourselves in the name of high tech and science.

But it's too late to turn back the clock now. Too late to say that this is what it's going to be. And therefore, I don't want the money that the environmental community is trying to give to the Ute Mountain Tribe. I don't want your money. I've seen what people like you have done to the country. I've seen where my forefathers have been dug up in the name of science. I've seen the animal life slowly disappearing. That didn't change it.

So along with that, we want the same thing what you are doing here in Denver, we want water. We want to be able to have a paycheck to be able to go to work. To be able to build hospitals, educational buildings, to be able to

take care of ourselves, be self-sufficient. And we do it in the name of sovereignty.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Chairman House (con't)

A lot of Indian tribes have tried to define what sovereignty is. Sovereignty to me is independence, independent to do what the tribe wants to do with their own reservation and with their resources within the area.

So with that, let's do the honorable thing tonight. It's been too long. The ink is dry. Honorable men have signed it. The treaty has been done. The Ute water rights, which we don't refer to as Animas-La Plata anymore because the Ute were doing the summit of the Ute treaty, water rights treaty.

2

Let's do it. Let's go forward and let's build this reservoir. Because nobody's going to satisfy anybody anymore. Certainly in this country we can live together, what's left of it to enjoy, to make our life, the Indian people, better than what we have. So with that, let's build a dam. Let's go with it for the future. Thank you very much.

PHT3-2 Comments noted.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Speaker: Mr. Wiygul

Thank you, Mr. Connor, Mr. Bezdek, Ms. DeAngelis, Mr. Beck. I appreciate the opportunity to be here again tonight.

In many ways I regret that I'm here again tonight. I regret that I'm in the position of opposing the current form of this project again tonight. Most of all, I regret that those who oppose this project, many of whom I represent, are accused again of unjust, dishonorable behavior simply because they believe there is a better way to do things.

I believe, and I say to you again as I have before, that I think these accusations of injustice and dishonor, cheapen our public discourse. They're the wrong way to approach this issue.

Those who believe there are better ways to do this do believe that the Ute Tribes should have their water rights respected. They do believe that they should get what is theirs. That does not mean that they have to support a dam.

I've heard a lot tonight about a settlement from 14 years ago. If the last 14 years have taught any of us anything, I think it must be that that settlement was not one that could be carried out. And I regret that those who entered into it at that time did not look forward to see that that settlement was not going to be able to be carried out in the form that it was ultimately confected.

We know that is true because you're going to have to go back to Congress to get authorization again for a different project here. And what you are doing in the process that you're now carrying out is in many ways an exercise in informing Congress about what it will be looking at when that legislation comes before it again.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Wiygul (cont'd)

Now, that being said, I believe that the document that you have produced is in many ways an honest document, and I commend you for that. I think that there are ways that it can be improved. Let me tell you what some of those are now.

First, you need to be explicit about what the cost-benefit ratio of this project is. This is something with which the Bureau of Reclamation is very familiar. Something the Bureau often does, it does not appear in this document in any form that anyone can find it easily.

PHT3-3 Reclamation's position on the appropriateness of completing a benefit-cost analysis for the ALP Project is discussed in General Comment No. 1.

Now, this is particularly true because the uses which you project for the water which will be in this reservoir which you propose to build are not in existence, and we do not know when they will be in existence in the future. It is not clear from your document when you expect this water to be used.

If you are to go to Congress and ask them to fund this project, which is also for Durango and Farmington and these other communities in that area, they're going to Congress and they're asking you to subsidize their water supply.

You need to say when that water is going to be used. Is it going to sit in a reservoir for 50 years losing 2,500 acre feet a year to evaporation before it gets used? This is an important thing for the public to know.

PHT3-4 Refer to General Comment No. 6 for a discussion of future water uses.

And truly I believe that when you evaluate the nonstructural means of trying to resolve this issue and look at the time frame that you're talking about for using this water, I think you're going to find that your predictions of a well that's being dried up are not going to occur. We will submit more substantive technical comments on that particular aspect of this, which I believe is clearly wrong.

PHT3-5 Comments noted.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Wiygul (cont'd)

5

(con't)

In addition, I do believe that truly the reason that the nonstructural alternative receives somewhat short shift in your documents that you're setting out from the premise that your purpose is to build a reservoir and if you do not build a reservoir, then obviously your purpose is not going to be met.

These are shortcomings which I do believe it is the Bureau's responsibility, the Department of Interior's responsibility, to correct, to make sure the public has all the information, to make sure that the Congress has all the information that it needs, and to make sure that this project is evaluated fully as it should be.

Again, I appreciate very much the opportunity to speak to you tonight and I look forward to submitting more detailed technical comments. Thank you.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Speaker: Mr. Doe

I was only in training two days ago. I've changed my testimony.

My name is Phillip Doe. I chair the Citizens Progressive alliance. We oppose the project. We favor settlement of Indian water rights. These are not contradictions. I would like to list a few of the assertions that are being bandied about and compare them with what I think are the facts.

6

Assertion: The Ute Indians have been waiting for water since 1868.

Fact: The two tribes already control between 120,000 and 150,000 acre feet of water, enough water for much of the residential population of Denver and environs. The cost of development of the water to the American people is in the hundreds of millions of dollars.

PHT3-6

The allocation of water under the Settlement Act for the Colorado Ute Tribes and other recipients is discussed in Section 1 of the FSEIS. Water from the ALP Project would complete the Government's obligation under the Settlement Act to the Colorado Ute Tribes.

7

Assertion: Irrigated agriculture has been a great boon to the economic development of Indian people.

Fact: Irrigated agriculture provides few jobs and little income to the tribes. We were told by Bureau economists two years ago, during Romer/Schoettler, that the Ute Mountain Ute irrigation enterprise from the Dolores Project, which cost the American people over \$800 million, was being run by a non-Indian management company from California, and that it was employing fewer than six Utes, and most of them part time.

PHT3-7

Reclamation disagrees. The Colorado Ute Tribe's capital costs are deferred in accordance with the Leavitt Act. In accordance with the Settlement Act, the Colorado Ute Tribe's operation and maintenance costs can be paid for by the Secretary of the Interior as long as they can demonstrate on an annual basis that they cannot pay.

8

We've also been told that Interior has been covering the Ute operating costs on this project because the Utes are unable or unwilling to do so. By law, they are required to pay their own operating costs. The capital costs are paid by other taxpayers.

Assertion: The Secretary of Interior is fulfilling his trust responsibilities by advocating more of the same.

PHT3-8

The Colorado Ute Tribes will make the ultimate decision on how, where and when to use ALP Project water, as well as other water provided under the Settlement Act.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Doe (con't)

8

(con't)

If the Indians were given the option of leasing even half of their present 150,000 acre foot water supply downstream, they could realize between 40 and \$100 million a year. This would be a lot of development money for the 3,000 people who make up the two tribes. But it would take great moral and political courage to buck the water boys of this state, a few of whom are here tonight.

PHT3-9 Comments noted.

9

Assertion: Mr. Babbitt in the State of Washington last Saturday, obviously before a different kind of audience, announced that a new age had dawned, one in which we no longer build dams, but one in which we actually decommission them.

Fact: Mr. Babbitt, the chief feature and most fractious element of the Animas-La Plata Project is a dam which you want to build, and in blind defiance of sweet reason.

PHT3-10 Comments noted.

10

Assertion: The ag portion of the ALP was dropped because of salinity. I think John had made this assertion in Durango.

Fact: The ag portion was dropped because it was too embarrassing, even for the Bureaucracy, to support any longer. For example, the pre-acre-foot cost of pumping the water into Ridges Basin exceeded, in most cases, the value of the crops that would have been raised by the water. The size of irrigated farms needed to make economic use of the water, about 1,000 acres, over 400 which had to be irrigated, barely existed in the project area; almost all are much, much smaller. The investment cost per acre to convert from dry land to irrigation exceeded the value of the land. There was no way that they'd get loans. And these are only the high points.

Incidentally, one of the Bureau's largest programs is reducing salinity for the projects it built. For example, they've spent over \$200 million in Grand Valley for this very thing in recent years, almost all at taxpayers' expense.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Doe (con't)

11

Assertion: That the new-old ALP is a compromise.

The reservoir size is consistent -- this is a fact. The reservoir size is consistent with the depletions allowed under the RPA, that is the project can only deplete 57,000 acre feet of water because of endangered species considerations. If there is a compromise, it is a compromise with reality, not with project opponents.

12

Assertion: The ALP will help store more of Colorado's water now being used for free by those ugly people in California.

Fact: Some people in California are probably ugly, but my wife's from California and she is not.

Actually, as far as water goes, ALP results in a loss to the State of Colorado of 250,000 acre feet of storage. Because in order to deplete 50,000 acre feet at Ridges Basin, the Department of Interior has agreed to replace it with at least 300,000 acre feet of depletions out of Navajo Reservoir, for an overall loss to the State of at least 250,000 acre feet of water.

13

Assertion: There are no other existing sources for Ute water except a dam at Ridges Basin, which happens to be on the outskirts of Durango, a small resort city which some developers think should and could rival Vail, if they only had an unlimited supply of cheap water.

Fact: Navajo Reservoir stores about 1.7 million acre feet of water, at least 17 times that which could be stored at Durango. It and the river into which it drains abut both reservations. And only about 500,000 acre feet of that water is now allocated primarily to the Navajos for irrigation. That leaves about 1 million acre feet of settlement of Indian water rights claims. We pleaded with you all a year ago when you were here for scoping to look at Navajo Reservoir. You did not hear us. Why?

PHT3-11 Comment noted.

PHT3-12 The releases for Navajo Dam to benefit endangered species are not depletions. They pass down the river without significant loss. Further, they average less than 300,000 af per year from storage. A large portion of the release comes from water that would spill if not released. Also, Navajo Dam does not store water for use in Colorado. It was constructed for uses in New Mexico, so Colorado does not lose water due to releases from Navajo Dam for endangered fish.

PHT3-13 The assertion that there are no other sources for Ute water other than Ridges Basin Reservoir was not made. Other alternatives were examined in detail and were judged to be less environmentally acceptable or were problematic in meeting the project purpose and need. The volumes stated as being available from Navajo Reservoir are not realistic. The total volume of water in a reservoir is not available to meet annual demands. First, the active capacity of the reservoir is just over 1,000,000 af. Over 600,000 af is inactive storage and cannot be used to meet demand while still allowing delivery to the Navajo Indian Irrigation Project. Second, the storage volume is needed to meet existing demands in dry years, providing carryover storage. Operation studies indicated that there is insufficient capacity in Navajo Reservoir to meet full project demands without retiring existing rights and the use of that capacity is needed to meet Indian Trust water needs in New Mexico.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Doe (con't)

Assertion: Primarily by politicians such as Campbell and McInnis, and now some Indian leaders, The opponents of ALP are a bunch of environmental elitists who could care less about Indian well-being.

PHT3-14 Comments noted.

14

Fact: The people I talk to and the people I represent who are opposed to ALP come from all walks of life. They are clergymen, bankers, entrepreneurs, bus drivers, farmers, housewives, students, college professors, Indians, and yes, even retired Bureau of Reclamation employees such as myself. But the attempt to discredit us with a label, exposes a real lack of decency -- I've got two more lines -- decency and moral commitment to free expression and difference.

Moreover, I know of no one in the opposition who does not want a reasonable settlement for Indian water rights. We are just not all that fond of the diet provided commercially-grown mushrooms. And that's a fact. Thanks.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Speaker: Mr. Walcher

Thank you. I'm going to be extremely brief. I am Greg Walcher. I am Executive Director of the Colorado Department of Natural Resources. I have two documents that I would like to give you and ask that they be included in the record of this meeting, if that's possible.

Thank you. One of those is a resolution documented last month by the Colorado Water Conservation Board expressing support for the legislation that would embody this alternative.

And the other is the opening statement that the State of Colorado made some four years ago, I guess at the beginning of a similar process. I include it in the record because so many of the points made by former Lieutenant-Governor Gail Schoettler remain valid today.

15

All I want to tell you, I want to associate myself with the comments of Attorney General Salazar made earlier and just make it clear that all of the points that the Attorney General made are the official position of the State of Colorado Department of Natural Resources, the governor's office, the General Assembly, all of whom are extremely grateful to the Bureau and to the Interior Department for the work that they've done in getting to the point where they are today.

It is not at all our intention to question the honor or the motives of any of the people involved. As you know on both sides of this issue there are some extremely strongly held views. And they're held by well-meaning people who all I think care deeply about trying to find the right balance on this issue. And with so many of these issues there's right on both sides.

The State has reached the same conclusion that the Department has. I guess if this alternative comes closer to a better solution than any of the others that were available and have been looked at over a very long period of time.

PHT3-15 Comments noted. See response to Comments SA4 and DNWS2.

DENVER, CO TRANSCRIPT (February 17, 2000 Public Hearing)

DNT

Mr. Walcher (con't)

So with that, I want to encourage you on behalf of the State, as the Attorney General did, to move with all deliberate speed to try to get this done, and thank you all again for your work on it.